

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA JAMAR and U.S. POSTAL SERVICE, MARINA
PROCESSING & DISTRIBUTION CENTER, Inglewood, CA

*Docket No. 02-112; Submitted on the Record;
Issued January 3, 2003*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
DAVID S. GERSON

The issue is whether appellant is entitled to more than a 13 percent impairment of the right upper extremity for which she received a schedule award.

On May 5, 2000 appellant, then a 42-year-old mail processor, filed a notice of occupational disease alleging that she sustained injuries to her hands due to the repetitive duties of her federal employment. Dr. David A. Sweeney, Board-certified in physical medicine and rehabilitation, diagnosed appellant with bilateral carpal tunnel syndrome on May 5, 2000. Dr. Paul Hwang¹ diagnosed appellant with right shoulder tendinitis, right lateral epicondylitis and neck strain. The Office of Workers' Compensation Programs accepted appellant's claim for right carpal tunnel syndrome.

Appellant filed a claim for a schedule award on May 23, 2001. She submitted a January 19, 2001 report from Dr. Hwang indicating that he performed multiple tests on appellant's neck, shoulders, elbows and wrists.

The district medical adviser found that on July 2, 2001 appellant had a 13 percent permanent impairment of the right upper extremity based on the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.² The district medical adviser noted that appellant's claim was also accepted for right lateral epicondylitis.³

By decision dated July 30, 2001, the Office awarded appellant a 13 percent schedule award for the permanent partial impairment of her right upper extremity.

¹ The Board is unable to determine whether he is Board-certified.

² A.M.A., *Guides*, (5th ed. 2001).

³ This decision is not found in the record.

The Board finds that this case is not in posture for decision.

The schedule award provisions of the Federal Employees' Compensation Act⁴ and its implementing regulation⁵ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides*⁶ has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.⁷

In this case, Dr. Hwang examined appellant on January 19, 2001 and stated that she had reached maximum medical improvement. Regarding appellant's right elbow he found:

"At rest, there is no pain. However, with any elbow flexion or extension, the pain increases to three out of ten. With reaching, pulling, filing, the pain would increase to six out of ten. The patient would then stop the task. After rest, the pain would return to baseline after five minutes."

Regarding her right hand and wrist he stated:

"At rest, there is no pain. With wrist motion, including flexion/extension, the pain would increase to five out of ten. The pain would then force her to stop. The pain returns to baseline after five to ten minutes. The patient also complains of numbness and tingling in the bilateral palms if she does not wear her carpal tunnel wrist splints."

The district medical adviser applied the information from Dr. Twang's report and found that appellant had a 13 percent permanent impairment of the right upper extremity. Regarding impairment due to sensory deficit or pain resulting from peripheral nerve disorders, she found that appellant had a Grade 4 level of impairment, according to Table 16-10, page 482, of the A.M.A., *Guides*. Grade 4 is described as minimal pain that is forgotten during activity. She also found that appellant had a Grade 4 impairment due to motor and loss-of-power deficits based on individual muscle rating, according to Table 16-11, page 484, of the A.M.A., *Guides*. The district medical adviser, however, did not provide any explanation for her selection of Grade 4 as the appropriate level of impairment. Accordingly, the Board finds that the case will be remanded to the Office to obtain a complete report, including an explanation as to why a particular grade of pain or muscle function is appropriate. After such development as the Office deems necessary, it should issue an appropriate decision.

⁴ 5 U.S.C. § 8107.

⁵ 20 C.F.R. § 10.404 (1999).

⁶ *Supra* note 2.

⁷ *Supra* note 5.

The July 30, 2001 decision of the Office of Workers' Compensation Programs is hereby set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
January 3, 2003

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

David S. Gerson
Alternate Member